



To: All Legislators

From: Cori Lamont, Director of Broker Licensing and Regulation
Joe Murray, Director of Political and Governmental Affairs

Date: March 6, 2012

RE: Condominium Law Revisions – AB 560/SB 539

The Wisconsin REALTORS® Association (WRA) strongly supports AB 560/SB 539, legislation clarifying and updating Wisconsin's condominium law. The WRA requests three modifications, two changes to clarify measures enacted in 2003 Wis. Act 283 and a third relating to the buyer's statutory right to rescind regarding condominium disclosure materials.

1. Condominium Addendum to Real Estate Condition Report

Background -- 2003 Wis. Act 283 established the requirement that when a Real Estate Condition Report (RECR) is given in a real estate transaction for the purchase of a condominium unit, that an addendum including information about the condominium association, fees and a copy of the executive summary also be provided.

The Problem -- In certain cases such as new construction or sale by a trustee or personal representative who has never lived in the property, the RECR is not required. The language in Wis. Stat. § 709.02 has created some uncertainty among attorneys and practitioners regarding whether the addendum material must still be provided when the RECR itself is not required.

Proposed Solution -- The first proposed change clarifies that the addendum materials are necessary only if the RECR itself is required.

2. Small Condominiums without Executive Summaries

Background -- Part of the requirements for the condominium addendum to the RECR established in 2003 Wis. Act 283 is the attachment of the Executive Summary, a user-friendly index to issues of importance to condominium buyers required under Wis. Stat. § 703.33(1)(h).

The Problem -- Wis. Stat. § 703.365(8) provides small condominiums of 12 units or less with an option to use abbreviated disclosure documents that don't include an Executive Summary. If a small condominium does not have an Executive Summary as part of its normal disclosure documents then they should not be required to produce one as part of the condominium addendum to the RECR.

Proposed Solution -- The second proposed change clarifies that an Executive Summary is not required for the RECR if a small condominium is using the abbreviated disclosure documents option.

3. Missing Condominium Documents

Background -- Under existing law, after receiving all of the condominium disclosure documents required by Wis. Stat. § 703.33(1), the buyer has five business days to rescind the offer in writing, without stating any reason and without liability. Wis. Stat. § 703.33(4)(b).

The Problem -- If the buyer does not receive all of the required information, the buyer's five-business-day time period for rescission never begins to run, leaving the buyer with a way to back out of the transaction right up until the closing. The problem is magnified by the fact that the buyer is not required, under current law, to inform the seller that the buyer did not receive all of the required documents. As a result, this loophole in the law allows the sellers to spend considerable time and money on inspections, testing, loan approvals, title work, etc. only to have a buyer bow out at the eleventh hour based on a missing document.

The Proposal -- Under AB 560/SB 539, if the buyer receives condominium disclosure documents that include the cover sheet and index, but is missing one or more of the documents required by Wis. Stat. § 703.33(1), the buyer will have five business days to either rescind the offer in writing, to request that the seller deliver the missing documents, but if the buyer neither rescinds nor requests missing documents within the five business days, then the delivered materials will be deemed satisfactory and the buyer will have no further right to rescind based upon those materials.

If the buyer requests missing documents, the seller has five business days to produce the documents and the buyer has five additional business days in which to decide whether or not to rescind. If the buyer does not rescind at this point then the delivered materials will be deemed satisfactory and the buyer will have no further right to rescind based upon those materials.